



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

AUG 25 2000

REPLY TO THE ATTENTION OF:
(A-18J)

Lloyd Eagan, Director
Bureau of Air Management
Wisconsin Department of Natural Resources
101 S. Webster Street
P.O. Box 7921
Madison, Wisconsin 53707-7921



Dear Ms. Eagan:

Thank you for your August 17, 2000, letter regarding the submittal deadline for the 1-Hour Ozone Attainment Demonstration State Implementation Plan (SIP). Your letter indicated the possibility of delayed Board and Legislative review which would likely result in a failure to submit the 1-Hour Ozone Attainment Demonstration SIP by December 31, 2000. Please be aware that our highest priority for ozone is to complete all actions related to the one-hour ozone standard. The purpose of this letter is to identify the actions required by the Clean Air Act (CAA) for situations where a State fails to submit a required plan or the submitted plan is unapprovable.

Section 179(a) of the CAA provides for the imposition of two sanctions if the Environmental Protection Agency (EPA) takes action to disapprove or makes a finding of failure to submit a required SIP. The first sanction would apply 18 months after the EPA action or finding and would consist of 2:1 offsets for sources subject to the new source review requirements under section 173 of the CAA. If the State fails to comply within 6 months after the application of the first sanction, the second sanction, limits on the types of projects that may be funded with Federal highway funds, goes into effect. The sanctions are discontinued only when the State has come back into compliance by submitting a complete plan, or, in cases where the plan is disapproved, EPA approves a submitted plan.

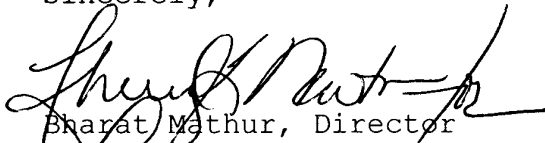
In addition to sanctions, a finding of a "failure to submit" or an EPA disapproval of a required submittal requires EPA to promulgate a Federal Implementation Plan (FIP) no later than 2 years from the finding (CAA Section 110(C)(1)). However, as a result of a consent decree between EPA and several environmental

groups including the Natural Resources Defense Council, EPA would be obligated to promulgate a FIP much earlier for Wisconsin, and other States with severe ozone nonattainment areas. This decree requires EPA to propose a FIP no later than October 15, 2001, if EPA has not approved a full 1-hour attainment demonstration SIP by that date and to promulgate a FIP by June 14, 2002, if a full 1-hour attainment demonstration SIP has not been approved. A FIP would include any control measures that EPA determined were necessary for Wisconsin to meet its attainment demonstration and rate-of-progress requirements. It should also be noted that a disapproval of the attainment demonstration SIP could affect Wisconsin's ability to use the SIP's motor vehicle emissions budget for conformity purposes and could adversely impact the State's ability to move forward with some transportation projects.

If EPA promulgated a FIP for attainment of the 1-hour standard, there is the possibility that the FIP would require nitrogen oxide (NOx) reductions from sources in southeast Wisconsin currently covered by the 182(f) NOx waiver for the Lake Michigan Air Directors Consortium area (61 FR 2428). If NOx reductions were found to be beneficial toward reducing ozone levels in the Milwaukee-Racine severe ozone nonattainment area, EPA could remove the NOx waiver for the Milwaukee-Racine nonattainment area and NOx requirements would once again apply. Moreover, as part of a FIP, EPA could impose NOx controls beyond the nonattainment area if such controls would be beneficial in achieving attainment in the Milwaukee-Racine area.

I appreciate the opportunity to provide this information and hope it helps clarify the consequences associated with not submitting a timely 1-hour Ozone SIP. Please call me if you have any questions.

Sincerely,



Bharat Mathur, Director
Air and Radiation Division